

10/700,729

MS306584.01/MSFTP530US

REMARKS

Claims 1 and 3-34 are currently pending in the subject application and are presently under consideration. Claim 1 has been amended herein to cure a minor informality. A version of all pending claims is found at pages 2-6. Favorable consideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

I. Rejection of Claims 1 and 3-12 Under 35 U.S.C. §112

Claims 1 and 3-12 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite because the Examiner asserts that it is unclear whether the limitation "that is an integer", following the phrase "at least one minifilter that has an altitude", is part of the claimed invention. Withdrawal of this rejection is respectfully requested for at least the following reasons. Independent claim 1 has been amended to rectify the minor informality identified by the Examiner and it is now believed that this rejection is moot. Accordingly, withdrawal of the rejection with respect to claim 1 (and claims 3-12 that depend there from) is requested.

II. Rejection of Claims 1 and 3-34 Under 35 U.S.C. §102(e)

Claims 1 and 3-34 stand rejected under 35 U.S.C. §102(e) as being anticipated by Golds *et al.* (US Patent Publication Number 2001/0020245 A1). This rejection should be withdrawn for at least the following reasons. Golds *et al.* fails to disclose or suggest each and every aspect set forth in the subject claims.

A single prior art reference anticipates a patent claim only if it *expressly or inherently describes each and every limitation set forth in the patent claim*. *Trintec Industries, Inc. v. Top-U.S.A. Corp.*, 295 F.3d 1292, 63 USPQ2d 1597 (Fed. Cir. 2002); *See Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The *identical invention must be shown in as complete detail as is contained in the ... claim*. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989) (emphasis added).

10/700,729MS306584.01/MSFTP530US

The invention as claimed relates to legacy filter support in a new managed file system filter model, and in particular to systems and methods that facilitate ordering of file systems and file system filters. Independent claim 1 recites: *at least one minifilter that has an integer altitude value associated therewith*, and independent claims 13 and 29 recite a similar claim element. Golds *et al.* does not disclose or suggest this particular novel aspect of applicants' claimed invention.

Golds *et al.* discloses a system and method for ordering software modules in a guaranteed order for execution wherein unique ordering values are statically assigned to software modules. The Examiner asserts that the cited document, at page 4, paragraphs 0033 and 0035, provides *an integer altitude value* associated with at least one minifilter. Applicants' representative disagrees. Page 4, paragraph 0033 provides for the assignment of ordering values to drivers, wherein the drivers, based on their functionality, are grouped into classes such that within each class various rules can be employed to assign ordering values to the drivers. Further, page 4, paragraphs 0035-0036 discloses that once classified into a group, each driver is given an ordering value in a range based on its class type that is a floating-point value. The ordering value may take the form of "0.ABBB", where the first character identified by "A" is used to define a general class or family of driver types, (*e.g.*, antivirus drivers, encryption drivers, *etc.*), and the characters "BBB" are employed to order individual drivers within the general class of driver types. Thus, for example, if a new driver is to be loaded between existing drivers 0.76241 and 0.76242 within a particular driver class, the new driver may be assigned an order number 0.762415, which would provide that the new driver is loaded between extant drivers 0.76241 and 0.76242. The invention as claimed in contrast, utilizes and assigns *integer values* to facilitate ordering of file systems and file system filters, rather than assigning floating point values to software modules. Thus, it is apparent that applicants' claimed invention and the cited document are clearly distinguishable.

The Examiner in the Response to Arguments section of the Final Office Action contends: "[f]loating point values as disclosed by Golds are values to order the file system and file system server, wherein the floating [point values as] broadly interpreted are values which [are] the same as integer values". (See Final Office Action, pages 2-3).

10/700,729MS306584.01/MSFTP530US

The Examiner in effect is asserting that there is no distinction between floating-point values and integer values. Applicants' representative respectfully disagrees. As would be commonly understood by one ordinarily skill in the art, an integer value is a positive or negative whole number and zero, *i.e.*, a value that is neither a fraction nor a mixed fraction. A floating point value in contrast is a fractional or mixed fractional number, *e.g.*, $\frac{1}{2}$, $\frac{1}{4}$, $1\frac{1}{4}$, 0.25, 0.5, 0.76241, 0.76242, 1.4142135, 3.1415926535, *etc.*

In addition, the Examiner is reminded that the standard by which anticipation is to be measured is *strict identity* between the cited document and the invention as claimed, not mere equivalence or similarity. *See, Richardson* at 9 USPQ2d 1913, 1920. This means that in order to establish anticipation under 35 U.S.C. §102, the single document cited must not only expressly or inherently describe each and every limitation set forth in the patent claim, but also the identical invention must be shown in as complete detail as is contained in the claim. The fact that Golds *et al.* fails to utilize integer altitude values, but rather employs floating point values leads one to believe that the cited document in the final analysis does not provide an invention identical to that recited in the subject claims.

In view of at least the foregoing it is requested that the rejection with respect to independent claims 1, 13 and 29 (and claims that depend there from) should be withdrawn.

10/700,729

MS306584.01/MSFTP530US**CONCLUSION**

The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063.

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicants' undersigned representative at the telephone number below.

Respectfully submitted,
AMIN & TUROCY, LLP


Michael J. Medley
Reg. No. 57,058

AMIN & TUROCY, LLP
24TH Floor, National City Center
1900 E. 9TH Street
Cleveland, Ohio 44114
Telephone (216) 696-8730
Facsimile (216) 696-8731